

BOARD OF FORESTRY AND FIRE PROTECTION

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MINUTES BOARD OF FORESTRY AND FIRE PROTECTION FULL BOARD OF FORESTRY MEETING

Sacramento, CA

March 8, 2007

BOARD OF FORESTRY MEMBERS PRESENT:

Stan Dixon, Chairman
Kirk Marckwald, Vice Chair
Mark Bosetti
David Nawi
Pam Giacomini
Jim Ostrowski

BOARD OF FORESTRY MEMBERS ABSENT:

Bruce Saito

BOARD STAFF:

George Gentry, Executive Officer
Eric Huff, Executive Officer, Forester's Licensing
Chris Zimny, Regulations Coordinator
Carol Horn, Executive Assistant

DEPARTMENTAL STAFF:

Crawford Tuttle, Chief Deputy Director
Bill Snyder, Deputy Director for Resource
Management
Russ Henly, Asst. Deputy Director, Resource
Management
Duane Shintaku, Asst. Deputy Director,
Resource Mgmt.

1. CALL TO ORDER

Chairman Dixon called the March, 2007 meeting of the Board of Forestry and Fire Protection to order.

2. ADJOURN TO EXECUTIVE SESSION

No Executive Session was held.

5. APPROVAL OF MINUTES

Member Ostrowski said under "Adjournment" the date of the meeting said December 2006, and should say January 2007.

03-08-5: Member Ostrowski moved to approve the January 2007 minutes with the minor date change. Member Bosetti seconded the motion. Member Nawi abstained from voting. The motion passed with 4-0 in favor with one abstention.

6. REPORT OF THE CHAIRMAN

Chairman Dixon said the next meeting of Board would have a different makeup. Members Marckwald, Bosetti, and Nawi's terms were up. Member Marckwald was appointed in July of 1999 and reappointed for another term in March of 2003. Member Marckwald was not seeking reappointment to the Board. Member Bosetti was appointed to the Board in December of 1999, and reappointed for another term in March 2003. Member Bosetti was not seeking reappointed. Member Nawi was appointed to the Board in August of 2002, and reappointed in March of 2003. Member Nawi was seeking reappointment. Chairman Dixon thanked the three Board Members for their service.

Member Bosetti said he appreciated the opportunity to serve on the Board. He said it had been a great honor to work with Board Members and the Davis and Schwarzenegger administrations.

Member Nawi said the last 4 ½ years he had served on the Board had been a great learning experience, a pleasure and a privilege. Member Nawi said he applied for reappointment to the Board and should know by March 15. Member Nawi mentioned that Mr. Robert Hattoy of the Fish and Game Commission had passed away and he would be missed.

7. REPORT OF THE DIRECTOR

Chief Deputy Director Crawford Tuttle said two weeks ago Director Grijalva was invited before the Senate Rules Committee for his confirmation, and he passed with a unanimous 4-0 vote by the Committee. Mr. Tuttle felt the Senate leadership was very comfortable with the leadership of the Department and the direction it was going. The Department reviewed the Legislative Analyst's report on budgets. CAL FIRE staff had meetings with both the Senate and Assembly. Mr. Tuttle said they had been fielding questions in the area of SRA – how were responsibilities divvied-up – how was CAL FIRE dealing with their response type – what were the number of responses CAL FIRE was dealing with – how was CAL FIRE spending their time. Mr. Tuttle said we might see a proposal to address instituting an SRA fee. Another issue CAL FIRE was dealing with was the Lake Tahoe BCP, in which they dealt with the Energy Commission and the Lake Tahoe Conservancy. That BCP would use in part Proposition 84 dollars to improve and accelerate fuel treatment activity in Lake Tahoe Basin, and would also assist in deciding the initial operation of a facility to handle that waste. There is an enormous amount of fuel that had been piled up in the Basin awaiting either a burning permit by local air quality management district, and as it sat in place awaiting a permit, it would continue to decompose, which causes a carbon issue. The Climate Action Team will have its first public meeting next week, and will include fire departments, the Resources Agency, California Energy Commission, DWR, CPUC, and four more departments and agencies, and will discuss reporting greenhouses gasses. Mr. Tuttle said the Department would be holding a "Supervision 5" training class to prepare future leaders of the Department. Mr. Tuttle said

from the Department's viewpoint, the TAC was proving to be a process that will add much value. Mr. Tuttle liked the way the TAC was progressing, and the Department would commit \$50,000 to support a contract that would complete the literature review of the riparian areas that had been identified in the first phase of that work. Because the contract would be going out for open bid, the Department was not certain what the costs would be, but they are committed and would be creative in finding money.

Member Nawi asked if the Department would be able to exceed the budgeted amount.

In response to Member Nawi, Mr. Tuttle indicated that some flexibility was possible to exceed the \$50,000 budget yet, provided it was within the "margin of error". He further stated that if the amount needed was far in excess of \$50,000, additional venues would have to be considered.

8. REPORT OF THE CALIFORNIA OAK MORTALITY TASK FORCE (COMTF)

No COMTF report was given, their staff were at the COMTF Symposium; however, the March 2007 COMTF Report was contained in the Board Binder.

9. REPORT OF THE ADVISORY COMMITTEES

CALIFORNIA FOREST PEST COUNCIL

No report was given.

RANGE MANAGEMENT ADVISORY COMMITTEE (RMAC)

Mr. Ken Zimmerman, RMAC Chairman gave an update to the Board. A copy of Mr. Zimmerman's report is contained in the Board's binder. RMAC had a full slate of members except for one California Wool Growers Association (CWGA) representative. CWGA nominated Mr. Edwin Anchordoguy for the position. Some of the issues RMAC had been dealing with were:

- Non-Point Source Pollution Non-Irrigated Ag Discharge waivers.
- Certified Rangeland Manager (CRMM) license.
- Noxious Weed and Vegetation Management

03-08-09: Member Bosetti moved the Board accept the nomination of Mr. Edwin Anchordoguy to RMAC. Member Nawi seconded the motion. All members were in favor.

MONITORING STUDY GROUP (MSG)

Mr. Pete Cafferata gave the Board an update on the Monitoring Study Group. A copy of Mr. Cafferata's presentation was contained in the Board Binder. Mr. Cafferata reported the MSG met on February 13 at CAL Fire Shasta-Trinity Headquarters. A copy of the minutes was contained in the Board Binder. Key agenda items covered were:

- Dr. Lee Benda provided the MSG with a PowerPoint presentation on the Earth Systems Institute's NetMap Watershed Catalogue and Software Tools.
- A presentation on the Interagency Mitigation Monitoring Program (IMMP).
- Discussion on Richard Geiger's Monitoring and Tracking Proposal for Plan Proponents.

The next MSG meeting will be held on April 10th at the Howard Forest Training Center.

PROFESSIONAL FORESTERS EXAMINING COMMITTEE (PFEC)

Mr. Eric Huff, Executive Officer for PFEC, said the PFEC met by conference call on February 27 for the sole purpose of reviewing the draft exam. The PFEC exam will be held on April 13. Twenty-two applicants were approved to take the exam who had never taken it before, and 18 applicants were approved who had taken the exam at least once. The exam will be offered at Riverside, Rocklin, Redding, and Arcata. Mr. Huff recalled at the board's last meeting, the Board authorized Policy #11, and a cover letter was sent to 56 counties within the State.

10. REVIEW OF THE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR JACKSON DEMONSTRATION STATE FOREST (JDSF) DRAFT MANAGEMENT PLAN

Dr. Russ Henly, Assistant Deputy Director for Resource Management met last week with Chair of the Mendocino County Board of Supervisors and gave an update on the status of JDSF. One item they discussed was that the Director was planning to appoint a new advisory body for Jackson State Forest. Appointing the advisory body would require much discussion as to what the representation should be. Mr. Henly discussed what role the Mendocino County Board of Supervisors may play in appointing an advisory committee. The Mendocino County Board of Supervisors were supportive the county playing a role and providing some guidance on the issue. Mr. Henly said the Board of Supervisors would organize a Mendocino Forest Council meeting to provide for the consideration of Alternative G of the Jackson Plan. Last week Member Nawi and Director Grijalva met with members of the Mendocino Group and they looked at initial THPs that the Department would propose to implement, once the DEIR was certified. They looked at six THPs that already had a substantial work, and a number of THPs the Forest Staff felt could be moved forward within a year or two of plan implementation. They focused on what might be less controversial and be less likely to raise concerns. Mr. Henly said they came up with about six plans that the Mendocino Group felt would be less likely to raise the public's level of concern, and that the Department felt they could move forward on expeditiously. Mr. Henly said CDF staff met this week with the Board's JSDF Subcommittee to follow-up on last month's Board meeting and Board direction, and he would be making some minor tweaks to Alternative G. Mr. Henly said they were looking at about three to four weeks for completion of the documents and to have them ready for recirculation.

Member Nawi said he and Member Giacomini were comfortable with Alternative G. Member Nawi said the plan was that Alternative G would be proposed as a management plan and it would have embedded in it a requirement that in three years a review of the plan be completed and semi-annual reports to the Board on the progress of the plan. Member Nawi said after the supplemental environmental document and provisions for the plan had been released, it would be appropriate for the Board to hold a workshop in Ukiah to take public comment on the documents. Member Nawi said Mr. Henly took the direction provided from the meeting and incorporated revisions.

11. UPDATE BY THE BOARD'S TECHNICAL ADVISORY COMMITTEE ON THE SCOPE OF WORK FOR THE THREATENED OR IMPAIRED REGULATIONS LITERATURE REVIEW

Mr. Chris Zimny said this agenda item was a presentation of the final scope of work product for the Board's Technical Advisory Committee for a scientific literature review of forest management on salmonids. During the presentation, Mr. Zimny said they would be referring to a Powerpoint presentation, entitled "Literature Review for the Threatened or Impaired Watersheds Regulations Related to Riparian Areas". Mr. Zimny said the other document being referred to was the March 5, 2007 Scope of Work, which was a 105 page document. Both documents were contained in the Board binder. Mr. Zimny said the science team was appointed in September of 2006 to provide guidance for a literature review and scientific information for protection of listed salmonids. The BOF TAC Mission Statement is to "Provide professional expertise and guidance to the Board to ensure the scientific literature review related to anadromous salmonids and forest management activities provides credible, comprehensive and relevant information for the Board's rulemaking

and policy processes". Mr. Zimny introduced Dr. Sari Sommarstrom as the Acting Chair of the TAC.

Dr. Sommarstrom introduced members of the TAC present at the meeting:

- Ms. Charlotte Ambrose
- Dr. Marty Berbach
- Mr. Pete Cafferata
- Dr. Cajun James
- Mr. Gaylon Lee
- Dr. Sari Sommarstrom
- Dr. William Trush
- Dr. Michael Wopat

The TAC members who could not attend the meeting were:

- Dr. Ken Cummings
- Dr. Brian Dietterick
- Mr. Gary Nakamura, Chair
- Dr. Kate Sullivan

Dr. Sommarstrom gave an update on the TAC's literature review for the threatened or impaired watersheds regulations related to riparian areas. Dr. Sommarstrom's main point was to outline for each of the five riparian functions

- Develop a basic PRIMER stating what is widely accepted in the literature.
- Develop a list of KEY QUESTIONS that the contractor will focus on.
- Develop a list of SUGGESTED REFERENCED (manageable number) for the contractor to review and report on.

Member Nawi, Chair of the Forest Practice Committee, expressed thanks to the efforts undertaken by the TAC and said the Forest Practice Committee was very pleased with the TAC's progress and how well they worked together. Member Nawi answered the questions the TAC had for the Board.

- **Do Key Questions, as restructured, reflect your literature review expectations?**
Member Nawi said the Board and the public had just received the package. Member Nawi's view was that the package would be reviewed this month, and at the April Board Meeting, the Board would consider approval taking action to approve the Scope of Work. Member Nawi said Board and Department staff have been working to have a contract all ready to go out, and all that would have to be done would be to plug in the Scope of Work.
- **The TAC recommends that the Board attend a workshop presenting Primer information that the TAC would host prior to the completion of the contract. Would the BOF be willing to attend such a workshop?**
Member Nawi said that was an excellent suggestion. The FPC agreed it would be advisable to hold the workshop close to the time the Board would be receiving the results of the contractor's work.
- **What is the TAC's role in presentation of the Contractor's literature review results?**
Member Nawi said the FPC felt the Contractor should have a written document presenting their findings and give a presentation to the Board in a public setting, and Member Nawi said it would be appropriate for the TAC to be present and comment on the Contractor's work either as individuals, but preferably in a consensus role. Member Nawi said it would be a 3-way presentation, the contractor presenting it's own work, the TAC commenting on that work, and the Board asking questions.
- **What is the TAC's role in subsequent policy discussions?**

The FPC felt the TAC's role should be limited to scientific and technical questions; the policy and regulatory decisions would be made by the Board informed by the scientific and technical information presented to the Board. As the process went forward, the Board might call on the TAC to provide answers to certain questions or to elaborate on certain issues.

- **Would the Board find it useful for the TAC to provide:**
 1. **science advice during the policy debate?**
 2. **recommendations for policies/regulations?; and**
 3. **future processes for incorporation of science into policy?**
 1. Yes
 2. No
 3. Excellent suggestion

Member Nawi said the FPC did discuss the TAC's concern over limited funding, and Chief Deputy Director Tuttle was aware of their concern. The Board was hopeful that the funding to support the contract was sufficient.

Dr. Sommarstrom asked if Mr. Nakamura could still serve as Chair of the TAC and be a member of the Board of Forestry. Chairman Dixon did not see why Mr. Nakamura could not be Chair of the TAC.

Member Marckwald suggested the TAC develop a list of how much more money they would need and how it would be spent.

Member Nawi said the Scope of Work would be on the agenda for the Forest Practice Committee. The Forest Practice Committee would present the Scope of Work to the Board for approval to send to Contracts.

Member Ostrowski asked if some of the TAC Members would be able to attend the Committee and Board meetings next month.

Mr. Zimny said the Board was going to send a letter to the general public in April saying here is the literature list, please select the literature you think might be relevant. The literature list needs to be assembled prior to the contract award.

12. STANDING COMMITTEES OF THE BOARD

FOREST PRACTICE COMMITTEE (FPC)

Member Nawi reported that the Forest Practice Committee met yesterday, and the first item they discussed were the T/I Rules with a presentation from the Technical Advisory Committee. The FPC spent most of their time discussing the 2112 Regulation; they discussed substance, timing, and process. Member Nawi said at the end of the consideration of the issue, the FPC decided to bring it the full Board without a recommendation.

Member Ostrowski said in regard to the 2112 regulations, there was much conversation that still needed to take place. He felt the Executive Officer did a good job of putting together what the Board's wishes were based on the January motion from Member Marckwald, and that the Strawman was a very task-oriented proposal. Member Ostrowski felt yesterday's discussion provided guidance, and gave them a feeling for how the Board's process had always worked defining rule packages. Member Ostrowski said the 2112 Regulation package needed to move forward.

Member Marckwald thought there were several excellent efforts to move things forward yesterday. Member Marckwald said when the rules were adopted, it needed to be made clear that the Board was expecting that they would be sufficient and consistent with the regulations of Fish and Game. Member Marckwald said this was different from other rules that have come before the Board because we have this partnership, and the needs of Fish and Game are a co-equal or superior process because they are the ones who have to say "yes, this is sufficient". In regard to timing, Member Marckwald said, there have been enough different proposals that the process and public clarity would be well served by getting a proposal out soon. Member Marckwald said he would be happy to support putting something out today, but he was aware that there had been some productive staff discussions and there should be a vehicle to have those discussions, while at the same time authorizing an act to put it out pending review by the Chair of the Forest Practices Committee or pending review by the Board. Member Marckwald said they should not wait, because until it is put out, the Board won't be able to clarify the issues.

Member Bosetti said he did not hear anyone saying the Board should not engage in the process. He said if the Board went down the path of noticing the regulation, and if Member Bosetti's opinion it still had points that were unformed to the degree that if it were noticed 45-days from now and have a public hearing the Board would recognize that there are things that need to be changed; in Member Bosetti's opinion, there are things that are potential 45-day notice issues alone. Member Bosetti said the Board should follow their usual rule-making process, and they should expedite the process by meeting more than once a month.

Member Giacomini said she pretty much agreed with all of the statements she had heard. She said to Member Marckwald that yes, it was a partnership, but it was the Board's rule, and they need to have a clear version prior to a 45-day notice. Member Giacomini recommended that staff meet with stakeholders with the current Strawman and walk through the issues and find solutions.

Member Nawi offered to make a motion. He stated that after listening to the process yesterday, it brought to his mind a process that other agencies follow. In that process, the staff, directed by the Executive Officer would develop a proposal and bring it to the Board, and in front of the Board there would be a lively back and forth. The Board would not have ownership of the particulars of the proposal. Member Nawi said the Board of Forestry's process, by contract, because the Board and Committee before a 45-day notice goes out, pays great attention to all the details of the particular proposal, there is a much greater level of ownership before a 45-day notice would be issued. Member Nawi was proposing a shift authorizing the staff, including CDF and DFG, to meet with stakeholders in a public process, which would be a designated workshop, to accommodate the concerns of people using the February 28 Strawman as a point of focus, inviting comments on both Strawman questions and alternative proposals, having staff being ready to respond to comments, suggestions and proposals, and then for them to put out what in their judgment is the best proposal for a regulation, and with that come back to the Board with the understanding that to the extent there are disagreements that were not resolved in the workshop process, the Board would have an open mind and could go down issue by issue and say we agree with the comments of staff or we disagree with the staff comments for the following reasons. Member Nawi thought that would accommodate the need to engage the public. Member Nawi said the other alternative was having another special meeting of the Committee. Member Nawi felt the bulk of the issues could be decided upon and resolved at a workshop. Board Members would be invited to attend the workshop, and the workshop would be noticed 10-days prior, then the proposal would come out to the Board, they could resolve the issues and if an additional 15-day notice needed to be provided so be it. Member Nawi felt this was an appropriate time for the Board to delegate more of the crafting proposals to staff, and empower them but make it clear that there were public concerns heard and addressed, and get the package in less time than it would take to go through Committee process, they would be able to make Board decisions on the conflicting points they hear.

Member Marckwald offered a second of the motion, if Member Nawi would accept his amendment:

The Chairman of the Forest Practices Committee makes himself available to staff to the extent that they felt they needed some guidance and clarification on a specific point or points based on what they heard. This would be somewhat of a departure from what they have done before, but Member Marckwald could envision that something might arise where some guidance might be appropriate from the Chairman of the Committee.

Member Nawi accepted Member Marckwald's amendment with the amendment that it involved Member Ostrowski as well. Member Nawi said he and Member Ostrowski had worked together on several issues and he would feel more comfortable getting Member Ostrowski's judgment as well as his own.

Member Marckwald said he was happy to do that, it was basically to give some sounding board so that staff would not be reluctant to do. Member Marckwald said it would be fine for Member Ostrowski to join Member Nawi.

Member Ostrowski said he was fine with the amendment to the motion.

Chairman Dixon asked Member Nawi to spell out more definitively what Member Marckwald just asked, and how he wanted to see staff take it on.

Member Nawi said a notice would go out saying here is the Strawman Proposal, a workshop will be held on such-and-such date, comments, suggestions, alternative proposals will be discussed and it will be an informal workshop setting, focusing on structural issues. Member Nawi felt there was an indication that they could be resolved and they did not seem to be beyond simple resolution. Member Nawi thought the staff would initially explain once again the basic premise of the regulation, making it clear that what the Board is talking about in this regulation is a single option for streamlining Incidental Take Authorization. Staff would present structurally what they were intending to do and then go through with the public present suggestions on structure, regulation, and the content to the extent that suggestions would be made back and forth, and take language from the CFA proposal and plug it into the definition of the Strawman. Member Nawi said it was brought up yesterday there was some thought of changing language to facilitate the issuance of Incidental Take Authorization whether there be substitute language for that, minimize and mitigate all those things that we discussed, and to the extent of issues with exclusions which I assume to be the case then the Department of Fish and Game will take lead in responding to those concerns. What he was planning for was a responsive exercise in the workshop and Member Nawi's hope was that it would be memorialized in real time. If a decision were made to change the definition of headwall swales that would be included right then in the modified Strawman and at the end of the exercise for a 45-day notice.

Chairman Dixon said at the end of the day, essentially, your feeling was that there could be a document that could be noticed for 45-days.

Member Nawi said that was the crux of the proposal. Basically it would be up to staff to come up with the best draft regulation they can come up with in light of all of the concerns, including formed consensus going back and forth will now come back to the Board without having to go through the long committee process. As Member Nawi mentioned earlier, he thinks this would be an appropriate time to try this because of the extensive staff time gone into it, because of the extensive role of the Board and CDF in this particular regulation, and to the extent that it might work, it could save the Board a lot of time and effort in the committee process in the future, and allows the Board to get their jobs done more expeditiously. Member Nawi said he realized it put a burden on staff, but to repeat something he said yesterday, over a long period of time the most consistent comment he hears is how long it takes the Board to get anything done, and this might be a way of expediting our process, and make the Board more responsive to the regulated notice.

Chairman Dixon asked Member Nawi if he was implied in his motion was authority from the staff at the end of the day was to be able to release the document.

Member Nawi said yes, it would be released in the form the Board felt most appropriate.

Member Bosetti said he wanted to make sure he had it right. The concept of the motion was that today the Board would direct staff to prepare a public notice of a workshop, and at that workshop, the Strawman proposal that was circulated yesterday would be the targeted focus of the discussion inviting comment from the public, alternative proposals to that, and facilitation of the discussion or department's discussion (CDF and DFG) present to add clarity to questions to refine discussion and then at the conclusion of that time staff in consultation with the Subcommittee that the Board formed to help shepherd this along, would arrive at a rule proposal that would then be put out for a 45-day notice .

Member Nawi said "yes that was essentially it with two tweaks". The first was rather than release to the public alternative proposals, Member Nawi's sense would be not to provide soup to nuts alternative proposal, but to make specific suggestions by way of alternatives for specifics of the Strawman, so you don't have competing proposals, the focus of the discussion would be Strawman, but if you want to say change it around, move section 3 to section 4 that sort of thing, not we have a CFA here and a Strawman here it just would not focus the discussion well, and you will hear the tweak and Member Nawi would write it as that only is that the Committee of Member Ostrowski and he would be as needed and as required if necessary. If in his wisdom, the Board's Executive Officer believes that he has basically come up with enough information to go out with a proposal after considering what transpired at the workshop he would be authorized to do that without consultation. If he needs consultation, Member Nawi proposed that he and Member Ostrowski would be available. In the workshop setting a member of the public could say "why have you done this? Explain it", it really is a workshop, somewhat like we got into yesterday, but using the approach of the workshop setting provide a full explanation of the need or go back and have dialogue why did you do this, we did it for this reason. Member Nawi said from his experience this could be very productive. Member Nawi said otherwise Member Bosetti the answer is yes.

Member Bosetti said he had some discomfort of granting that much authority to staff to make the decision to notice the package. Member Bosetti said it would make more sense that the Chairman of the Board, Chairman of the Forest Practice Committee, or an ad hoc committee assigned by the Board to consent to that.

Member Nawi said he had no problem with Member Bosetti's suggestion. Member Nawi said he could report to the Chairman and say this is what happened, and this is what we propose to do, and provide it for Chairman Dixon's approval to draw up the package. Member Nawi said he had no problem with that at all. It doesn't give the Board the ownership of the particular provisions the structure does but it does empower the Board to allow this. Member Nawi said he had no problem with what Member Bosetti suggested, and he accepted the amendment.

Member Marckwald said as seconder, he thinks that is fine, either the Chairman of the Board, or the Chair of the Forest Practice Committee, or ad hoc committee or the three of them did he did not have a strong feeling for how to do that but he was thinking of the two of you (Members Nawi and Ostrowski) plus the Chair, one or two and Member Marckwald said he would comply with that if the way the Board wanted to go.

Member Giacomini said she had read Strawman as a small landowner, and it still had some structural issues in her mind and it was not clear as she read it what the options were. Member Giacomini thought there were still larger issues as well as the word crafting on headwater swales that need to occur. Member Giacomini asked staff as they have heard the debate as to what the process is that is being proposed are you comfortable that you can take sentence-by-sentence or concept-by concept and sit down with a checklist and go Fish and Game does this work for you, CDF does this work for you, interested public does this work for you, yes, no, maybe, which instruction do we take and put something together that then would go out for a 45-day notice.

Mr. Shintaku, Assistant Deputy Director for Resource Management, said he was intrigued by Member Nawi's idea, he thought it had merit. Mr. Shintaku said he had a slightly different idea of what would work; specifically, knowing that there were a couple of issues that he sees. One, we all know that we have all been at this for about eight months, we have met with stakeholders in the past, hearing from CFA yesterday saying they felt enough public exchange had occurred, that he cannot get the underlying major issue at least from CDF's perspective is the idea of meeting Fish and Game's issuance criteria. No matter what they come up with, it is paramount in the discussion. Consequently, the Department's 12/20 Plead was something that they were speaking with the stakeholders for many hours. When the Board asked Executive Officer Gentry to come up with a Coho-specific approach we responded to that, and he thought that got them closer to CFA's contentions. Mr. Shintaku felt like the Strawman that they had been focusing on in the past two meetings was the closest compromise that had the vital chance of making it through. Mr. Shintaku thought it was a good thing that they were looking at which of the proposals they want to use as a discussion item. One thing CFA and Pete Ribar brought up was the fact that there are some structural issues as well as some prescriptive issues still in their mind that need to be bedrocked. It seemed to Mr. Shintaku that the workshop was a great idea, but usually what happens at those kind of workshops is that someone will say "well we are not sure why you propose this, have you considered this" and spend an hour talking about a very small portion of the proposal. At the end of the day, if you have a full-day workshop, you might only cover 15% to 20% of the real issues that people are concerned about. So you bring that back to the Board or Subcommittee and it is a good start, but it doesn't get us very far toward our goal. What Mr. Shintaku suggested was before holding the workshop, CALFIRE staff and Fish and Game staff and CGS staff and Agency people involved would be willing to put together, what would make the most sense was the people who had been the most vocal and the most engaged, CFA and any other member of the public that feel that they have alternatives that have other options other than the Strawman, that they articulate, put those in a list for all Board members and Board staff understand what are the outstanding issues. Before the workshop is held they assimilate that list, so that when the workshop is held they could be focused on what are the differences ahead of time. If issues are identified before the workshop, and allow staff to really cogitate them and talk about them before the workshop, there would be a much better response once the workshop is held, and be closer to finally resolving, and putting out something they were confident to notice.

Member Nawi said what Mr. Shintaku was asking for was a notice to ask for written comments, focusing on Strawman, by a certain date for staff internally to consider, and then have the workshop. Focusing on the Strawman, invite written comments first, comments, suggestions, changes – then between the deadline of receiving those comments and the actual workshop agency folks and that would include CGS, Galen and whoever else we want, would be prepared to respond so the time spent at the workshop would be more meaningful and efficient.

Member t Marckwald said he thought that was a great idea, but also we should invite people who indicate levels of importance and if they want to assign a level of importance to their comments, great, if not staff should assign a level of importance to satisfy the 8020 rule rather than the 2080 rule where 20% of the stuff gets 80% of the time. Pick the three or four important issues and say here are what we think are the important issues to make sure that they are covered, what is structural, what is missing, the deep concerns so that we will have confidence to say to the Chairman, Board, or Committee, here is what we learned, and this is what the 45-day notice looks like.

Mr. Mark Stopher, DFG, had some comments to Member Giacomini's request. We are now three years past the point in time when the Commission directed the department to develop regulations. Many of the drafts of the regulations had been shared with stakeholders. Mr. Stopher said he did not think that at the end of the day we will arrive at any specific language throughout the document that will make everybody happy. He said he listened yesterday at Committee talk about the usual process for dealing with rules and how this seemed somehow different. This is more awkward than the usual rule-making process. The Department of Fish and Game's recommendation today is that the Board move forward with the Strawman 45-day notice today. Mr. Stopher sees no

reason for the process that had been discussed for the last half hour to go forward during that time period, at the end of it substantive changes were such that required another notice, then so be it. DFG would be available and would participate with staff for whatever exercise the Board wants to outline and direct during that time period. It has been a very long road getting here and there is no end site as far as Mr. Stopher sees. Mr. Stopher and DFG suggest that the Board put some structure in terms of rule-making deadlines and the process that would bring this to a close one way or another in the next few months.

Member Ostrowski said he thought the Board was trying to come up with a structure for better organization. Member Ostrowski said he had written down some things he believes the Board had achieved or that needs to be achieved in order to move forward. Member Ostrowski was not sure whether the current motion is the way to do that or not. Member Ostrowski felt the Board finally had a clear objective on table. It took five months to narrow the focus to the objectives they had in front of them. Member Ostrowski said they started asking questions in order to understand how the process needed to work, particularly in the way of the Department of Fish and Game's obligations. What stuck in Member Ostrowski's mind was when Mr. Stopher explained that he needed to have a very clear criteria for issuance that had a lot of options that could be decided at a later date would be very awkward, there needs to be clear criteria for Incidental Take. Member Ostrowski said a lot of the proposals that they had heard were objecting to objecting to the fact that they were a very rigid set of regulations. How the Department sees their obligations and how they see their regulation was helpful in clarifying what options the Board had in the rule-making process. Member Ostrowski said that was the kind of discussion that either needs to be written down, some of those criteria so that everybody understands that and it is part of the record of why we are doing this, clearly they have that process, and they are looking at doing a more programmatic Incidental Take Permit streamline version. Member Ostrowski said that all needed to be out on the table so that the people who are making suggestions, asking questions, or improving the package some of that would be available, we just don't chase our tail over things that are not really relevant. Member Ostrowski thought there was a lot of agreement yesterday, and that needed to get that into the Strawman proposal. After listening to Member Nawi's proposal, Member Ostrowski had some concern that the Board was moving ahead in a timeline, it sounded like what could be done in Committee. Member Ostrowski would like to see the Board hold a special Committee meeting, and proceed ahead with those concepts having staff put it into language that will forge a solution to more people concerns. Member Ostrowski said he was not proposing an amendment but just throwing out a different perspective.

PUBLIC COMMENT

Mr. Richard Gienger agreed with what Mr. Shellito and Mr. Stopher and Mr. Mason had to say.

Mr. Chris Quirmback, representing Timber Products Company, said the rule had been around 8 months, but there had been little dialogue about specifics. He felt the proposal for a workshop was a step in the right direction. His company would provide their comments in writing prior to workshop, and he would like to have the agencies comments before noticing. Need to reach out for consensus on proposal. Get comments in writing, and have more face to face dialogue. The proposal goes beyond Incidental Take; it is a performance based way to deal with Incidental Take.

Mr. Jeff Shellito, representing CalTrout, asked for clarification on Member Nawi's motion. He asked if the proposed workshop would delegate staff to put out a 45-day notice. Mr. Shellito said he was not comfortable with staff drafting and going out with a 45-day notice. He said he would not support a package where staff would be filling in the blanks at a later date.

Mr. Dave Hammonds, representing California Licensed Forester Association, said the last rule process he participated in was the T/I rule package. It was a long process, and several meetings held. He would appreciate holding a workshop to get down into the nuts and bolts.

Mr. Tom Walz, a Registered Professional Forester who does Timber Harvesting Plans in Trinity and Humboldt counties, was concerned about inconsistencies of Strawman. He said the Board should take further additional comments/changes in writing and then have them at the workshop in the form of a table.

Ms. Michelle Diaz, representing California Foresters Association, supported most of what Member Nawi's motion said. CFA remains committed to continuing work on this process. Ms. Diaz said Fish and Game should be required to provide the necessity of the prescriptive measures. She felt the Board should look at the rule package and then approve it, to not rely on staff.

Mr. Stephen Levesque, representing Hawthorn Timber Company, said they would welcome the opportunity to talk about substantive prescriptive issues. Mr. Levesque said it would be helpful if Dept. of Fish and Game could indicate why alternative measures did not meet prescriptive measures. He said the lack of clarity could result in tying up hours of staff time. Mr. Levesque suggested wait a month or two to work out the remaining issues

Mr. Pete Ribar, representing Campbell Timberland, said he would like opportunity to submit comments, and would like to see written comments back addressing issues. Mr. Ribar had a problem moving the rule package out before getting it right. He said the Board should look at the package before going out for notice. Mr. Ribar said there were many elements in proposal, and he wondered where would bar be set.

Mr. Paul Mason, representing Sierra Club, was baffled as to why this had becoming such a big deal. Mr. Mason said all rule package did was maintain statue quo. He said people should not think this would improve conditions on the ground for fisheries. Mr. Mason said the rule package did very little, and the Board should put out notice to comment.

Mr. Tim Feller, representing Sierra Pacific Industries, said the Department of Fish and Game had issued a recovery plan. He agreed that T/I need to be in effect for Incidental Take. The proposal needs to allow flexibility. Mr. Feller looked forward to discussions on Strawman. He agreed with Mr. Shintaku about written notice and written comments.

Mr. Arne Hultgren, representing Roseburg Products, said the Board interfaces between scientific world and the political world. He said the Board had an excellent start using the TAC.

Ms. Charlotte Ambrose, representing National Marine Fishery Service, said the Department of Fish and Game and Department of Forestry and Fire Protections suggested moving forward with a 45-day notice. Ms. Ambrose said there was a potential for the Board to lose three members and she heard a desire to get a decision made today. She said the bottom line was meeting the ITP criteria. Ms. Ambrose felt there was an opportunity for a compromise to move the package forward on a 45-day notice, with it being responsive to DFG and CDF recommendations, and insist on very thorough workshops, the process and structure of recommendations that were made. By doing that, Ms. Amrobse said, would be responsive to landowners and agencies.

Chairman Dixon asked Member Nawi to formally reiterate his motion.

03-08-12: Member Nawi moved that agency staff, headed by the Board's Executive Officer hold a workshop on the February 28 Strawman, and in advance of that workshop, written comments from interested parties would be solicited. The workshop would be public and duly noticed and would invite comments and suggestions again geared toward the Strawman proposal itself, and that the Executive Officer in consultation with the Chairman of the Board be authorized to issue a 45-day notice on the Strawman proposal as it may be modified from the workshop, and then come back to the Board.

Member Marckwald said he would second the motion with the proposal that the Executive Officer come back to the Chairman of the Board instead of coming back to the committee. The sign-off would be with the Chairman of the Board to the Executive Officer. It seemed to Member Marckwald that the Executive Officer, if he needed it or wanted to could still consult with members of the Committee who may have a deeper knowledge or a different take from an expertise standpoint, they would be available to Board members not to constitute a forum, just to seek your guidance if Members Nawi and Ostrowski were open to that.

Member Nawi said both he and Member Ostrowski were nodding yes.

Member Marckwald said with the one thing Member Nawi said was the February 28 Strawman or the February 28 Strawman as altered based on discussions yesterday. There may be some things that are already closer to consensus to the extent that they are, Member Marckwald believed that staff, under the Executive Officer's guidance, could choose to issue a slightly altered February 28 Strawman, in fact, there are already some changes in it. So that the workshop doesn't waste time arguing about something that had already been changed. Member Ostrowski observed that some changes might have already been jointly agreed to, and that should be on the table if that is the case, if not then the February 28 version.

Member Nawi said the Board had seen the February 28 proposal and when staff notices the workshop they could say "we propose making the changes".

Member Ostrowski said is accepting its responsibility of crafting the new proposal based on the starting point of the February 28 proposal. When staff starts crafting the new proposal, hopefully it will satisfy in their mind and they can potentially can address the Board's issues to craft something in concept to register the 45-day notice. The proposal needs to be clear.

Member Marckwald said at the workshop that you guys are talking about on the 28th and any changes that they make or are proposing to that, they then would hear the process, the Board's Executive Officer would come back to the Chairman to say this is what we have come up with. Member Marckwald said if that is the way the process works, he would be happy to second the motion.

Member Nawi said that was how he envisioned the process.

Chairman Dixon said the Board already had a motion and a second, are you talking about an amendment?

Member Marckwald said it was a restated motion by the maker to insert the, make it clear that the Board's Executive Officer is running the play as supported by the Department , CALFIRE and Fish and Game, and secondly, that ultimately he have the responsibility to come back to you rather than Committee, and Member Marckwald said his friendly amendment was that if the Executive Officer wished to consult you, he could do that , but ultimately the buck stops there.

Member Nawi said the only other change to the motion as he had originally made it was to incorporate Mr. Shintaku's suggestion of compiling a list of issues and soliciting comments from interested parties.

Member Bosetti asked for clarification on the work expected from staff and the Executive Officer.

Member Nawi said the staff would consult with the Chair on the content of the regulation, and assuming he gave it his approval, staff would prepare a 45-day notice package in the usual fashion, initial statement of reasons.

Member Bosetti said as the workshop unfolds and the written comments come in, and the staff takes those comments, obviously there will be divergent view points, is it left to the Executive Officer to arbitrate what to include, or if there is a divergent view point, with an alternative suggestion that fits to craft the language such that there are alternatives in it to where the Board would have them highlighted for them. That is what Member Bosetti wanted clarity on.

Member Nawi said he had not considered that, but as the result of workshop process, there are two alternatives which staff and the Executive Officer feels are appropriate to bring forward because they had merit and/or because it would eliminate the need for a 15-day notice change, and re-noticing would be the Executive Officer's discretion to bring forward alternatives.

Member Marckwald said when you say bring forward, bring forward to the Chair. This proposal would authorize the issuance of a 45-day notice once the Executive Officer had consulted with the Chair, and it may or may not have alternatives in it as to what is in the February 28 Strawman right now.

Member Nawi said there might be two proposals that come out of the workshop that the Executive Officer feels equally merit consideration, then the package would become Option 1 and Option 2, and that would go out as a 45-day notice and not come back to the Board.

Member Bosetti wanted to be sure that what they ended up with is, what Member Bosetti said he was ready to leave from the discussion was the give and take and the discussion that took place when the stakeholder involvement that the Fish and Game and the Department engaged the representatives of the public, the Board has not heard any of that, they had not heard any of those issues or disagreements, that is what Member Bosetti was interested in hearing. That is what he was hoping the process would shed some light on. Member Bosetti felt this was a substantive issue.

Member Nawi said they might have a more robust initial statement of reasons, initial staff report explaining some of the guidelines that went on when you get the package, which is frequently the case.

Member Giacomini said the Board heard from several folks that they are very uncomfortable having staff or a subcommittee of the Board, although greatest respect, to put out a 45-day notice from that forum. She believes that Jeff Shellito was very clear that he wanted the full Board to look at the entire package that might be noticed, several other people have mentioned the same thing. With the Board changing, they might need the opportunity to in the event from the debate to understand the written give and take the Board will get, as well as responses from Fish and Game as to why something must be in there or should not be in there. Interested public input as to what was coming in because the whole Board must be informed have the benefit of that gained knowledge from the debate that the Board will hear, when they will ultimately make the decision. Member Giacomini thought meritorious for them and all of the Board to have that informed to date. Member Giacomini said that while she liked quite a few components of the motion, she really wanted the Board to make that decision to notice the package.

Member Ostrowski said he had the same concerns as Member Giacomini, but at the same time, he thought that they were looking at was a different approach to reach the same point. He said that Member Nawi's comment that the Board would have to have a more robust record, we rely on committee's and committee members to make recommendations to the full Board for a 45-day notice changes, and departing from that they would have to have a way to communicate to the full Board the detail and the comfort level of why the proposal is acceptable. That will be a challenge for staff if they decide to do this, to communicate to the Board and it may take the process of a 45-day notice, and a detailed presentation of why certain provisions and options were taken in the crafting of the 45-day notice. Member Ostrowski said it is a little different approach, being sort of a kind of hands-on type person he would like to get in there with all the details, it hard to delegate sometimes. Member Ostrowski believes there is some merit to the approach. He believes that

staff will make the decision that if the workshop did not provide resolution or input to all of the issues, but they had good enough information to make a good 45-day noticeable draft that they need to seek additional workshops or additional input, Member Ostrowski would assume that is all part of that process. Member Ostrowski said with that he would support the motion with the new approach they had been embarking on.

Member Bosetti asked how long it would take to put this together, and ultimately craft something.

Executive Officer Gentry said he would check for available space in the auditorium to hold the workshop, probably in two weeks. Executive Officer Gentry said they should be receiving input prior to the workshop and it would depend on how detailed and extensive the comments were.

Member Bosetti asked at the point in time when the information is compiled for the Chairman's consideration for noticing based on staff consideration, once noticed will it sit in suspense for 35 days or can there be discussions on the issue during the interim. Member Bosetti wanted to make sure it didn't drop dead once it had been noticed.

Executive Officer Gentry said the purpose of the 45-day notice was to solicit comment and additional input so there is no blackout on it. The Committee may engage in discussions about the notice while it is being noticed.

Member Bosetti wanted to make sure that the opportunity was conveyed and the public was aware of the fact that once it is noticed, the Forest Practices Committee or the full Board should and could continue discussions in Committee.

Mr. Richard Gienger said the Board should solicit input two weeks prior to the workshop.

Executive Officer Gentry said the idea was to put out the notice for the workshop and solicit written comments simultaneously.

Member Giacomini asked if the Board would be able to continue with discussions and continue it on the agenda so there was Board oversight and input and understanding of where the process was going, and the clarity of written input that had come in.

Board Counsel Ashby said the Board may continue to discuss the rule package once it had been noticed, but if changes are made, it may kick in an additional notice period.

Chairman Dixon asked Board members who were in favor of the motion. All were in favor and the motion passed unanimously.

Chairman Dixon commended both Department's staff for the long haul and all of their work and efforts they had put into it.

POLICY COMMITTEE

No Policy Committee meeting was held, so that Board Members could hear the discussions on the 2112.

MANAGEMENT COMMITTEE

Member Giacomini said the Management Committee met yesterday. Staff Counsel was able to review the draft Road Management Plan, and she had some suggested changes which were minor. Member Giacomini said there was some extra language added and tweaked, and that it would be held at Committee for one more month so everyone would have a chance to review the

final language that the Committee made changes to, and discuss it at Committee and then bring it to the Board for a 45-day notice.

Member Giacomini said the Committee also discussed the NTMP Growth and Yield Guidelines. The Committee requested that the Department go back to interested and affected stakeholders. The Department had been reviewing comments, and should have responses to the comments by the April or May Board meeting.

The Management Committee had a comprehensive outline of the PTEIR Guidance Document, and will flush out comments at next month's meeting.

RESOURCE PROTECTION COMMITTEE (RPC)

Member Bosetti said an abbreviated version of the Resource Protection Committee meeting was held yesterday with himself, Member Giacomini and Member Saito in attendance. They discussed a draft letter that was prepared in response to a letter the Committee received from RMAC requesting clarification on the path they were headed in regard to the Vegetation Treatment Program review. The Committee and the Chair of RMAC went through the letter, and the Committee agreed with the content of the letter. Member Bosetti said the letter had also been reviewed by Chairman Dixon and the Board. Member Bosetti signed the letter and it was forwarded to RMAC.

The other thing the Committee touched on was if they had any General Plan Safety Element Reviews that were in need of action. Mr. Zimny said there was a backlog on General Plan Reviews, making it hard to respond in a timely manner. The Committee's direction was to staff was to follow-up on the comments made by Director Grijalva last month and invite Assistant State Fire Marshal Dargan to a Committee meeting to fill her in on the status and seek discussion from her on whether there is some assistance the SFM could offer.

Following conversations with Members Giacomini and Saito, Member Bosetti provided a draft on Level-of-Service for Committee consideration. The Committee's decision was to fully discuss the draft at next month's meeting, and staff was to provide notice that there was a draft on the Element of Service Review and to post it on the website, along with any other information pertinent to the review so that the public had knowledge of what was there. Staff was also to seek whatever method they could to engage stakeholders in part of the Fire Plan Update and to notify them that the Board had some draft language at the Committee had considered.

13. REPORT OF THE REGULATIONS COORDINATOR

No report was made.

14. REPORT OF THE EXECUTIVE OFFICER

Executive Officer Gentry reported that the April Board of Forestry meeting will be held at the Mission Inn at Riverside. Tuesday, April 3, will be a field trip, Wednesday, April 4 the committees will meet, and Thursday, April 5 will be the full-Board meeting.

15. PUBLIC FORUM

Ms. Michele Dias, representing California Forestry Association, thanked Members Nawi, Marckwald, and Bosetti for their work on the Board.

Mr. Richard Gienger concurred with Ms. Dias and thanked Members Marckwald and Bosetti for their work on the Board. Mr. Gienger hoped Member Nawi would be reappointed. Mr. Gienger would like to see more progress on the 2112 regulations, but he felt the TAC was moving along well. Mr. Gienger suggested a field trip of NTMPs at the June Fort Bragg Meeting,.

Mr. Bill Keye, representing California Licensed Foresters Association, said CLFA would be hosting a Forestry 101 Class, and he invited board members to attend. Mr. Keye wished the best of luck to the departing Board Members.

16. NEW AND UNFINISHED BUSINESS

Member Nawi said he enjoyed working with Members Bosetti and Marckwald. Member Marckwald said he had learned a lot and enjoyed being a Member of the Board of Forestry and Fire Protection. .

17. ADJOURNMENT

The Chairman adjourned the March 8, 2007 meeting of the Board of Forestry.

Respectfully submitted,

ATTEST:

George D. Gentry
Executive Officer

Stan Dixon
Chairman

Copies of the attendance sheets can be obtained from the Board Office.